

SPATIAL PLANNING AND LAND USE MANAGEMENT ACT NO 16 OF 2013 (SPLUMA)

KZN DARD COLLOQUIUM

DATE: 17/11/2017

PRESENTER: Mr S Viljoen



rural development
& land reform
Department:
Rural Development and Land Reform
REPUBLIC OF SOUTH AFRICA

PRESENTATION OVERVIEW

- **BACKGROUND & OVERVIEW OF SPLUMA**
- **OVERVIEW OF INSTITUTIONAL ARRANGEMENTS**
- **ROLES AND RESPONSIBILITIES OF LAND USE MANAGEMENT COMPONENTS**
- **BY-LAWS**
- **APPEALS**
- **CHALLENGES IN DEVELOPING LAND USE SCHEMES**
- **IMPLEMENTATION PROGRESS**

IMPORTANT DATES

SPLUMA
ENACTED



05 August
2013

REGULATIONS
GAZETTED



23 March
2015

PROCLAMATION



23 April
2015

IMPLEMENTATION



01 July
2015



PROCLAMATION

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STAATSKOERANT, 27 MEI 2015

No. 3682B 3

PROCLAMATION

by the

President of the Republic of South Africa

No. 26, 2015

SPATIAL PLANNING AND LAND USE MANAGEMENT ACT, 2013 (ACT NO. 16 OF 2013)

In terms of section 61 of the Spatial Planning and Land Use management Act, 2013 (Act No. 16 of 2013) ("the Act"), I hereby, determine 1 July 2015 as the date on which the Act shall come into operation.

Given under my Hand and the Seal of the Republic of South Africa at Pretoria on this 23rd day of April Two Thousand and Fifteen.



PRESIDENT

By order of President in Cabinet



MINISTER OF THE CABINET



rural development
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REPUBLIC OF SOUTH AFRICA

LEGISLATIVE FRAMEWORK

**SPATIAL PLANNING AND LAND USE
MANAGEMENT ACT NO.16 OF 2013**

- *Framework legislation*
- *Focus on Institutional arrangements*

REGULATIONS TO THE SPLUMA ACT

- *Framework legislation*
- *More detailed arrangements*

**SPLUM By-Law
(Municipal Level)**

- *Detailed institutional arrangements*
- *Applications procedures*
- *Appeal procedures*
- *Transitional arrangement*

SPLUMA

WHAT DOES SPLUMA ENTAIL?

Single Piece of Legislation – Comprehensive, Uniformity, Effectiveness

A **Framework** for a **Planning System** for the **country** (sec 2[2])

Dev Principles

(Chapter 2
Sec 7)

Policies and Legislation

(Chapter 2
sec 6)

**Spatial Development
Planning & Frameworks**

(Chapter 4)

**Land Use
Management
through Schemes**

(Chapter 5)

**Other
Provisions**

(Chapter 7)
Delegations
Regulations

Repeal of Laws etc.

**Land
Development
Management**

(Chapter 6)



CONTENT OF SPLUMA

Chapter 1: Introductory provisions

Chapter 2: Development principles and norms and standards

Chapter 3: Intergovernmental support

Chapter 4: Spatial development frameworks

Chapter 5: Land use management

Chapter 6: Municipal planning tribunals

Chapter 7: General provisions

CHAPTER 1 – INTRODUCTORY PROVISIONS

Spatial Planning System (sec 4)

1. Spatial Development Frameworks
2. Development Principles, Norms and Standards
3. Management of land use
4. Land development management



Categories of Planning (sec 5)

National

- **Spatial planning and policies** (National Spatial Development Framework)
- **National planning & Regulation** relating to **land use**
- **Policies and legislation** to **support** other spheres

Provincial

- **Provincial SDF**
- **Provincial planning** relating to **land use**
- Policies and legislation to implement **provincial legislation**
- **Monitoring compliance** of local government land use management system

Municipal

- **Integrated development plan (IDP)**
- **SDF** and other components of IDP
- **Control & regulation of land use**



DEVELOPMENT PRINCIPLES

- **Integrated approach** to land use and **land development**
- Departmental **sector inputs provided** and prescribed requirements complied with during **SDF preparation**
- **Requirements of law** must be met timeously
- **Transparent processes** of public participation in all planning aspects

Flexibility accommodated in spatial plans, policies and land use management systems to **ensure sustainable livelihoods** in communities **most likely to suffer** the impacts of economic and environmental shocks



CHAPTER 3 – INTERGOVERNMENTAL SUPPORT

- National government

- **Must** provide **support** and assistance, **create capacity**: Sec 9 (1) (a)
- Must **monitor compliance** of municipalities and provinces: Sec 9 (1) (b)
- Must **develop mechanisms** to support and strengthen: Sec 9 (2)

- Provinces

- Provincial **legislation**
- **May support** municipalities **SDF, LUM** etc
- Resolve **disputes**
- **Monitor** municipalities and **provide support**



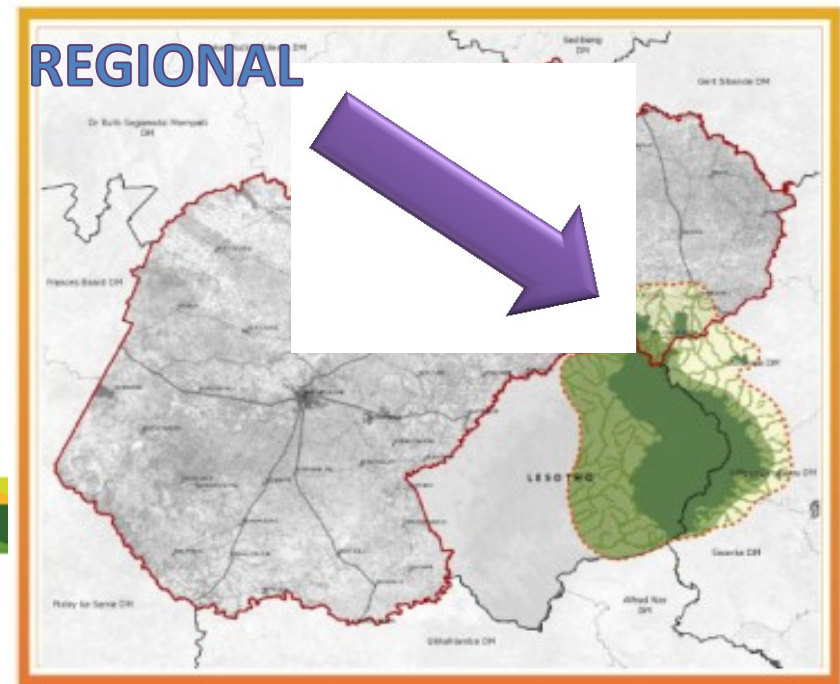
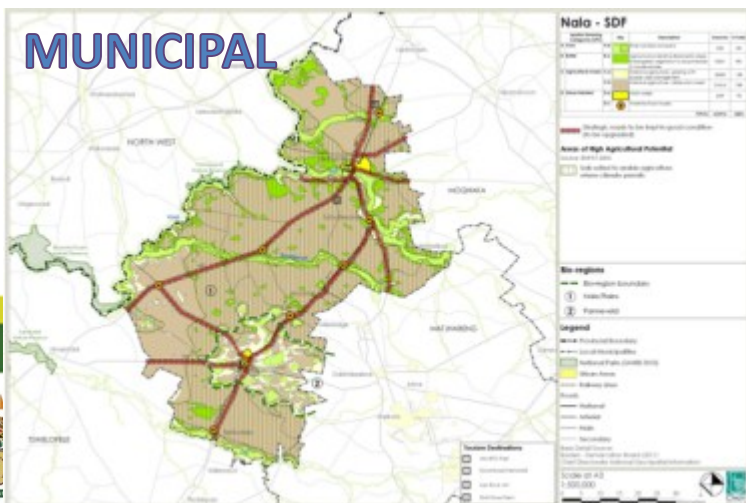
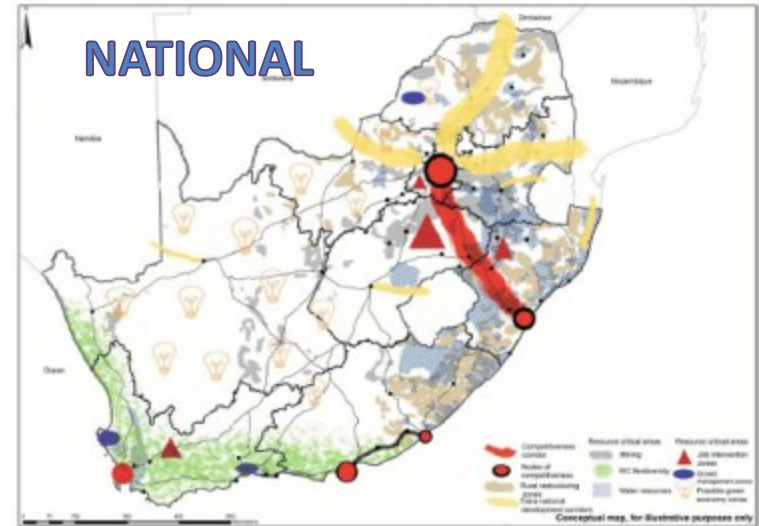
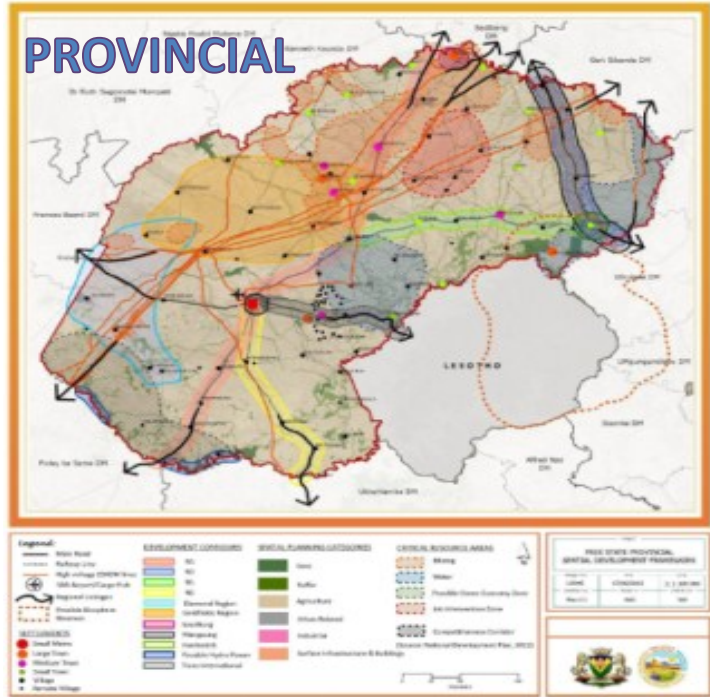
CHAPTER 4 – SPATIAL DEVELOPMENT FRAMEWORKS

- **All the three spheres of government must now develop SDFs;**
- **Be aligned to and consistent with the frameworks of other spheres;**
- A framework that seeks to guide overall spatial distribution of current and desirable land uses within a sphere/municipality in order to give effect to the development vision, goals and objectives.
- The aims of an SDF includes to promote sustainable functional and integrated human settlements, maximize resource efficiency, and enhance regional identity and unique character of a place.
- Reviewable every 5 years or less; and,
- Must involve public participation.



CHAPTER 4 - SPATIAL DEVELOPMENT FRAMEWORKS

OVERVIEW OF PLANS



CHAPTER 4 – SDFs (SPLUMA Sec. 21 Requirements)

- a. Give effect to development principles in **Chapter 2 (MSA Regs)**
- b. Spatial development plan for **municipal form** within **next five years (MSA Regs)**
- c. Spatial Development **Vision Statement** and desired growth pattern **(MSA Regs)**
- d. Significant **Structuring Elements** eg. Corridors, nodes, public and private investment **(MSA Regs)**
- e. **Population Growth Estimates** for next five years
- f. **Housing demand for various levels of income**, location and densities
- g. **Employment trends and economic activity** and locations for the next five years
- h. Location of **engineering infrastructure and services required** over the next five years **(MSA Regs)**
- i. Designated areas where **National and Provincial Inclusionary housing policy** may be applicable
- j. **Strategic assessment of the environmental pressures & opportunities**, environmental sensitivities, **High Potential Agricultural Land & Coastal Access Strips. (MSA Regs)**
- k. Locality of areas where **incremental upgrading approaches** will be followed **(MSA Regs)**
- l. Identify **areas where more detailed local plans** are required and/or **shortened development procedures** may be applicable
- m. Spatial expression of sectoral **integration and alignment of municipal departments (MSA Regs)**
- n. **Capital Investment Framework** depicted spatially **(MSA Regs)**
- o. Purpose, Impact and Structure of **Municipal Land Use Scheme (MSA Regs)**
- p. **Implementation plan**, consisting of
 - **Sectorial Requirements for budgets and resources**, including targets and monitoring indicators.
 - Necessary amendments to land use schemes,
 - Institutional arrangements for implementation (including partnerships),

*** LOCAL GOVERNMENT: MUNICIPAL SYSTEMS ACT, 32 of 2000**

SPATIAL DEVELOPMENT FRAMEWORK

Section 2(4) Local Government: Municipal Planning And Performance Management Regulations, 2001 requires that a SDF should (*amongst already mentioned items*):

- address the **spatial reconstruction (SPLUMA: Municipal Form)**;
- be **aligned** with the spatial development frameworks reflected in the integrated development plans of **neighbouring Municipalities**; and
- indicate **desired or undesired utilization of space** in a particular area;
- delineate an **urban edge**;

CHAPTER 5 - LAND USE MANAGEMENT

- Municipality is responsible for Land Use Management
- Primary instrument is the Land Use Scheme (LUS)
- Municipality must, after public consultation, adopt & approve a **“SINGLE LAND USE SCHEME FOR ITS ENTIRE AREA WITHIN 5 YEARS FROM THE COMMENCEMENT OF THIS ACT”** – Moves Goal Post of the PDA to **2020**.
 - **INCLUDES AGRICULTURAL LAND**
- LUS must be consistent with and **give effect to Municipal SDF**
- All land development **applications must be determined within context of the LUS**
- An approved and **adopted LUS has the force of law** and binds all owners and users of land

CHAPTER 5 - LAND USE MANAGEMENT

SECTION 24 OF SPLUMA - Each municipality must adopt a scheme

A scheme must:

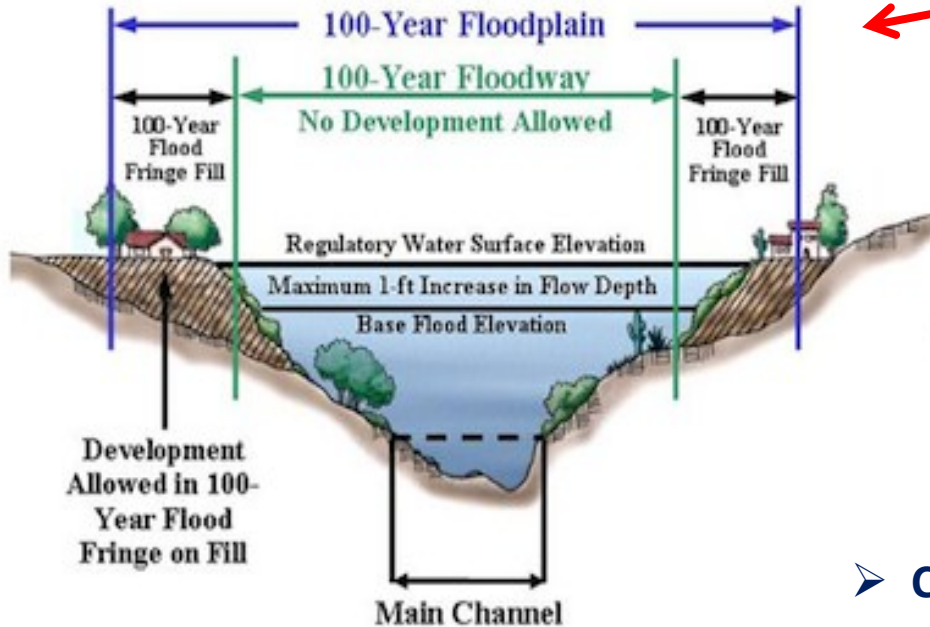
- Have categories of land use zoning for entire municipal area,
- Take cognisance of any environmental management instruments
- Provisions that permit the **incremental introduction of LUM** in areas under
 - **traditional leadership,**
 - **rural areas,**
 - **informal settlements,**
 - **Slums,**
 - **other areas not previously subject to a land use scheme;**
 - **Promote Inclusionary Housing Policies**
 - **Include Incentives to promote implementation of SDF & Other Policies (Local, Provincial, National)**
 - **Give Effect to SDF & IDP**

A scheme May Include:

- **Consent Uses**
- **Requirements for Special Zones to address development Priorities of LM.**
- **Variation from Scheme, use of buildings etc.**
- **LMs may request DM to develop a scheme for the DM area of jurisdiction to be used by LMs**

CHAPTER 5 - LAND USE MANAGEMENT

➤ Building houses on flood plains



People build on floodplains which is not advisable, it results in very tragic events when flooding happens

➤ Consequences of flooding



- There are lives lost
- Damage to infrastructure
- People have to be relocated

CHAPTER 5 - LAND USE MANAGEMENT

➤ Have incompatible land uses



➤ **Waste dump sites next to homes**

➤ **Other examples of incompatible land uses** ➤ **Industries at the back of residential areas**

- ❖ Having taverns next to schools
- ❖ Scrapyards in residential areas
- ❖ Having livestock farms in residential areas

CHAPTER 5 - LAND USE MANAGEMENT

➤ Building on road reserves

Road reserve is the area that has the road including the sides that should not be built on



Line showing the road reserve

➤ Consequences of building on road reserves & illegal Land

- ❖ Removal of people
- ❖ Demolition of structures
- ❖ Homelessness
- ❖ Loss of homes



CHAPTER 5 - LAND USE MANAGEMENT

➤ Overgrazing & loss of agricultural land



- ❖ Land becomes exhausted as a result of overgrazing
- ❖ Loss of important plants
- ❖ Livestock dies as a result of hunger and lack good quality food
- ❖ Land become s barren /dry

❖ Livestock units / Ha



❖ Ha / Livestock units

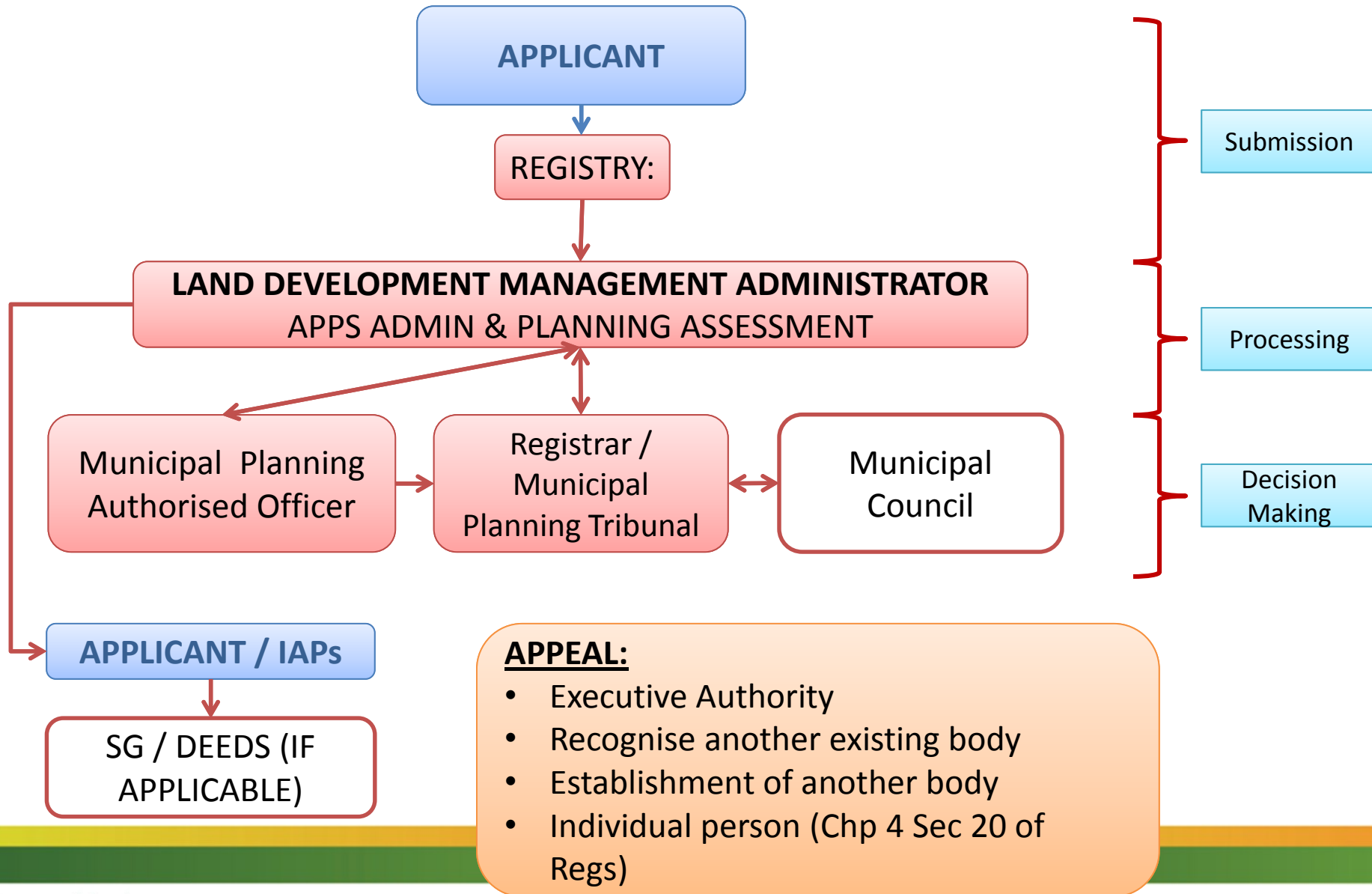


CHAPTER 6 – LAND DEVELOPMENT MANAGEMENT

- Land development applications are determined by Municipalities as the authority of first instance
- **Municipalities are required to establish Municipal Planning Tribunals to discharge this function**
- Municipalities **may** co-operate to **establish Joint** Municipal Planning **Tribunals**
- The Tribunals consist of **municipal officials** and suitably qualified **external persons** appointed by Municipal Councils
- **Appeals default** to the **Executive Authority** from decisions of MPTs

INSTITUTIONAL STRUCTURES

SPLUMA INSTITUTIONAL ARRANGEMENTS



FUNCTIONS OF LUM COMPONENTS

PLANNING TRIBUNAL	<p>Section 35(1) “A municipality must, in order to determine land use and development applications within its municipal area, establish a Municipal Planning Tribunal”</p> <p><u>Responsibility:</u></p> <ul style="list-style-type: none">• Consider development applications as per the categorisation of applications by the municipality.• Opposed applications• Can be opposed category 2 application (at the level of AO)• Decision to be well motivated• Conditions imposed can include and be related to provision of engineering services, payment of any development charges / Bulk Service Contributions, registration of servitudes etc.
AUTHORISED OFFICER	<p>Section 35(2) “...a municipality may authorise that certain land use and land development applications may be considered and determined by an official in the employ of the municipality.”</p> <p><u>Responsibility:</u></p> <ul style="list-style-type: none">• Consider & approve certain categories of applications• Uncomplicated applications e.g. building line relaxation.• Un-opposed applications.• Ensure applications is aligned with municipal packages of plans - IDP, SDF, Functional Area Plans, Land Use Schemes.



FUNCTIONS OF LUM COMPONENTS

MUNICIPAL COUNCIL

A municipal council as contemplated in **Section 157 of the Constitution of South Africa**

Responsibility:

- **Adoption** & amendment of **SDF** (as part of the IDP)
- In accordance with provisions of **SPLUMA and Municipal Systems Act**.
- Adoption of the municipal **Land Use Scheme**.
- Approval of and introduction of a **New Zone** to a **LUS**.
- **Approval of applications** to reach **Strategic Goals of SDF**.

MUNICIPAL COUNCIL

ASPECTS / MATTERS TO CONSIDER IN DECIDING ON AN APPLICATION

- **SPLUMA Chapter 2 Development Principles**
- SPLUM By-Laws: **Schedule 8** (Close related to KZN PDA requirements)



BROAD MPT OPTIONS

3 Broad MPT Options Identified in SPLUMA:

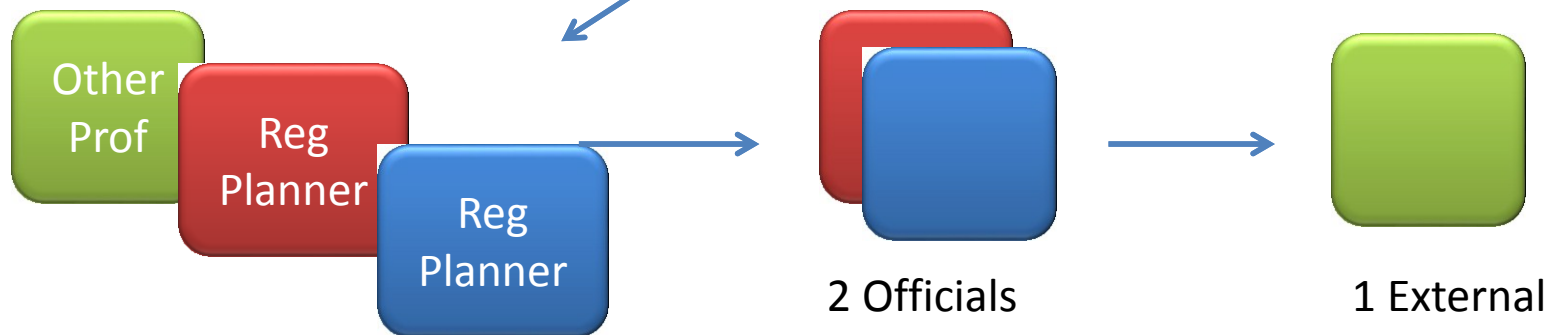
- 1. *Stand Alone MPT*** in the better capacitated municipalities with high volumes of applications and established internal capacity to process them.
- 2. *Joint MPT convened by the District*** in the more rural municipalities with limited numbers of applications and limited planning capacity.
- 3. *Joint MPT*** involving a ***few municipalities*** where there is a stand alone in the district and the remainder have to set up a joint structure due to limitations on capacity and numbers of applications.

MPT STRUCTURE AND FUNCTIONS

MPT: Includes 5 members or more



Each MPT application involves at least 3 members



Note: Use can also be made of a specialist where required as a co-opted member



BY-LAWS

CONTENT

CHAPTER 1

- **Preliminary** Provisions

CHAPTER 2

- **Institutional**
- Municipal Planning **Approval Authority**; **Categorisation** of applications; Municipal Planning **Appeal Authority**; Municipal Planning **Enforcement Authority**

CHAPTER 3

- Land Use **Scheme**

CHAPTER 4

- Municipal Planning **Approval**

CHAPTER 5

- Municipal **Planning Proposal** By A **Municipality**

CHAPTER 6

- **Appeals**

CHAPTER 7

- **Enforcement**

CHAPTER 8

- **Compensation**

CHAPTER 9

- **Service Of Documents**

CHAPTER 10

- **Delegations** And Agency **Agreements**

CHAPTER 11

- Keeping Of **Records And Access To Information**

CHAPTER 12

- **General** Provisions



SCHEDULES

SCHEDULE 1

- **Matters** that must be **addressed in an agreement** to establish a joint municipal planning tribunal

SCHEDULE 2

- **Categorisation** of applications for decision by the municipal planning approval authority

SCHEDULE 3

- **Activities in areas situated outside** the area of a land use scheme that requires municipal planning approval

SCHEDULE 4

- **Application processes: all applications, except** an application for a **dwelling** on land demarcated for the settlement of **indigent / Traditional Households** (schedule 7)

SCHEDULE 5

- **Public Notice**

SCHEDULE 6

- **Procedure for amending** an application or decision for municipal planning approval and **cancellation of municipal planning approval**

SCHEDULE 7

- Application **process for a dwelling** on land demarcated for the settlement of **indigent / Traditional households**

SCHEDULE 8

- **Matters** that a municipal planning approval authority **must consider** when it decides or makes a recommendation on an application for municipal **planning approval**

SCHEDULE 9

- **Information** that must be included **in notice of decision**

SCHEDULE 10

- **Appeal** Process

SCHEDULE 11

- Application for **late lodging** of memorandum of **appeal**

SCHEDULE 12

- **Urgent application** to the municipal planning appeal authority to **confirm that an appeal is invalid** or for the partial commencement of a decision approving an application for municipal planning approval

SCHEDULE 13

- **Transitional** Measures
 - Part 1: Ordinance
 - Part 2: Less Formal Township Establishment Act (LeFTEA)
 - Part 3: Development Facilitation Act (DFA)
 - Part 4: KwaZulu-Natal Planning and Development Act (PDA)

APPEALS

MATTERS THAT CAN BE APPEALED

- Rezoning to a zone that is already provided for in the land use scheme, like a zone that has been also used elsewhere in the Municipality (no change of land use scheme clauses required)
- Consent uses
- Subdivision of land
- Township establishment
- Restrictive conditions
- Development outside a scheme

APPEAL QUALIFICATION CRITERIA

APPELLANT MUST DEMONSTRATE:

Person whose rights are
Adversely affected by
the decision of MPT

An Applicant

Municipality

Interested Person
affected by Application

PROPRIETARY
INTEREST

Excl. DEVALUATION OF
YOUR PROPERTY

OR

PECUNIARY INTEREST

The proposal must
influence your
PROPERTY
(NOT in your vicinity,
BUT YOUR PROPERTY)

The proposal must
influence your
INCOME
(NOT an increase in
expenditure, could
include TRADE
OBJECTIONS)



SPLUMA APPEAL OPTIONS

1

**EXECUTIVE
AUTHORITY**
(s51(1))

(DEFAULT POSITION)

2

**EXTERNAL BODY:
APPOINT OWN
APPEALS
TRIBUNAL**
(NEED BY LAW)



CHALLENGES

CHALLENGES

➤ SPLUMA Requirement:

- “SINGLE LAND USE SCHEME FOR ITS ENTIRE AREA WITHIN 5 YEARS FROM THE COMMENCEMENT OF THIS ACT” – 2020.
- Municipalities to manage all land uses within its area of Jurisdiction

➤ Act 70 of 1970:

Def: All land EXCEPT...

- (a) land situated in the area of jurisdiction of a municipal council, city council, town council, village council, village management board, village management council, local board, health board or health committee...
- Scheme means a town-planning scheme prepared in terms of a provincial ordinance by an authority referred to in paragraph (a) of the definition of "agricultural land", envisaging the coordinated and harmonious development of the area to which such scheme relates;



CHALLENGES

➤ Act 70 of 1970:

Def: All land except...

- (c) land of which the **State is the owner** or which is held in **trust** by the State or a Minister for any person;

3. Prohibition of certain actions regarding agricultural land

- Sec 3.(f) **no area** of jurisdiction, local area, development area, peri-urban area or other, area **referred to in paragraph (a) or (b)** of the definition of "agricultural land" in section 1, **shall be established on**, or **enlarged** so as **to include**, any land which is **agricultural land**;
- (g) **no public notice** to the effect that a **scheme relating to agricultural land** or any portion thereof has been prepared or submitted under the ordinance in question, **shall be given**, unless the **Minister has consented** in writing.



CHALLENGES

➤ Current Practices:

- LMs **developing LUS** for all areas that is not defined as “Agricultural Land” in terms of Act 70 of 1970.
- Develop **Land Use Policies** for Agricultural Land (**Act 70/1970**)
- Scheme Areas are Inclusive of:
 - Formally Established **Townships** (Deeds Registries Act)
 - **Stateland:**
 - ✓ **Land Reform** - Large Tracts of high potential agricultural land
 - ✓ **Ingonyama Trust** Land

CHALLENGES

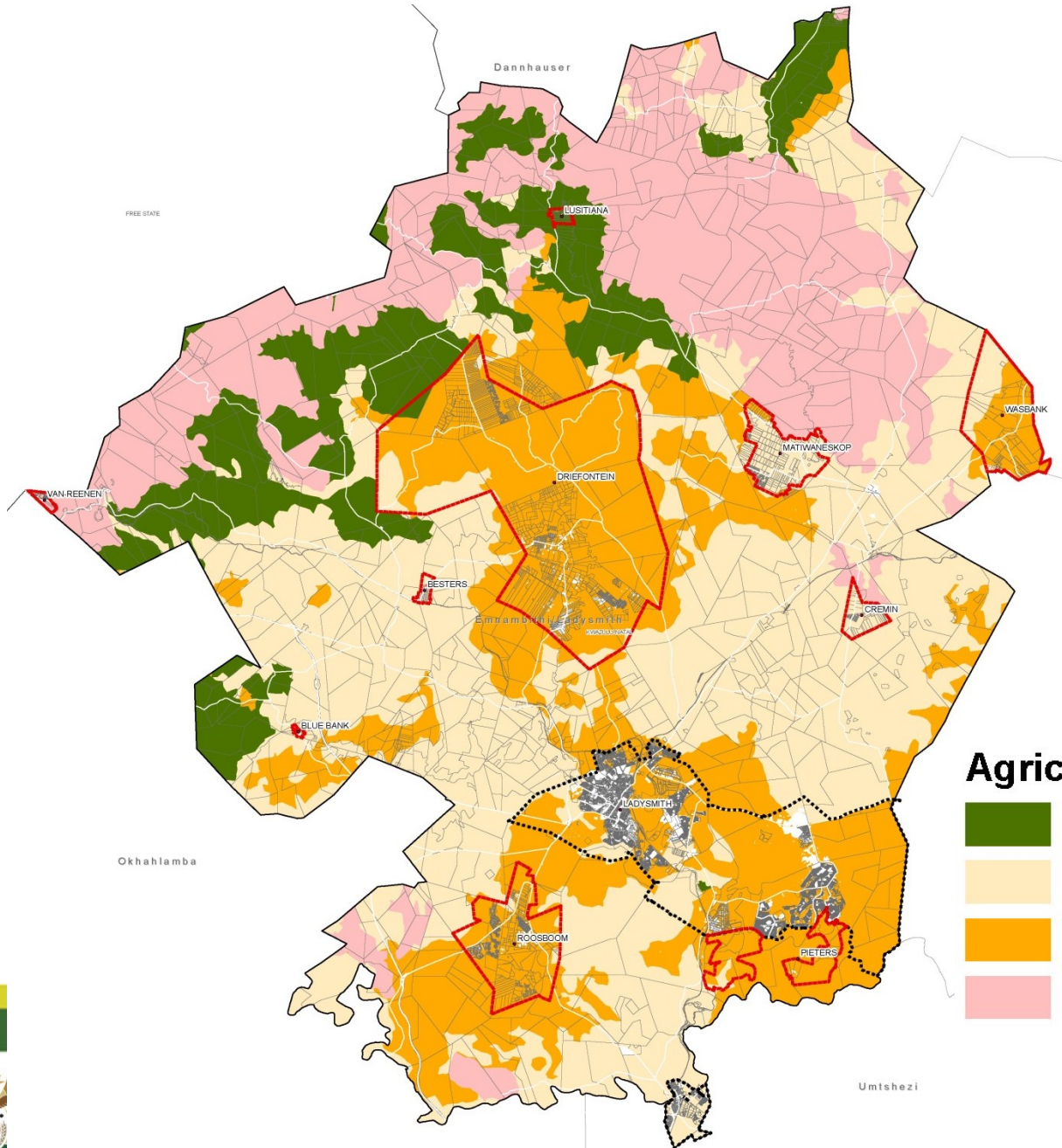
- Current Resources (Requires further development):
 - KwaZulu-Natal Agricultural **Land Potential Categories** Internal Report (Collett, A & Mitchell, F J) - **Categories A to E (Not Cadastral Boundary Linked)**
 - Ms B. Wiseman started compiling a more **extensive list of land uses.**
 - **Collaboration** between **DARD & Ezemvelo KZN Wildlife** to combine **agricultural & conservation targets**

**WHAT PROVISIONS DO WE PUT IN PLACE
HOW DO WE REGULATE LAND USE
HOW DO WE PROTECT AGRICULTURAL LAND**



CHALLENGES

Alfred Duma (Emnambithi Ladysmith) Rural Land Use Policy



Agriculture Categories

-  Exclusive Agriculture
-  Agricultural Support Opportunity Areas
-  Agricultural Support Zones
-  Agro-biodiversity Zone



CHALLENGES

Exclusive Agriculture

Permitted Uses

- Agricultural Building
- Dwelling House
- Second Dwelling House

Consent Uses

- Agri-industry
- Arts and Craft Centre
- Bed and Breakfast Establishment
- Camping Area
- Caravan Park
- Chalet Development
- Conservation Purposes
- Farm Tourism
- Hotel
- Restaurant
- Shop

CHALLENGES

Agricultural Support Opportunity Areas

Permitted Uses

- Agricultural Building
- Dwelling House
- Second Dwelling House

- Agri-Industry
- Conservation Purposes
- Farm Stall
- Farm Tourism
- Fishing

Consent Uses

- Arts and Craft Centre
- Bed and Breakfast Establishment
- Camping Area
- Caravan Park
- *Chalet development
- Shop

- Agricultural infrastructure (independent of the resource base)
- Farmers market
- Home Business
- Passive Recreational Area
- Recreational Building



CHALLENGES

Agricultural Opportunity Areas

Permitted Uses

- Agricultural Building
- Agri-Industry (**Support to primary agricultural production**)
- Conservation Purposes
- Dwelling House
- Fishing
- Second Dwelling House

- **Agricultural Support Infrastructure**
- **Farmers market**
- **Place of instruction**

Consent Uses

- Arts and Craft Centre
- Bed and Breakfast Establishment
- Camping Area
- Caravan Park
- Chalet development
- Shop

- **Conservation Purposes**
- **Farm Stall**
- **Farm Tourism**
- **Hotel**
- **Restaurant**

CHALLENGES

Agriculture - Communal

Permitted Uses

- Agricultural Building
- Agri-Industry
- Dwelling House
- Place of instruction

- Arts and Craft Centre
- Bed and Breakfast Establishment
- Farm Stall
- Farm Supply Centre
- Nature and Resource Conservation
- Plant Nursery
- Small-Scale Rural Settlements

Consent Uses

- Rural Tourism Facility
- Small-scale Tourism Development

LUS Guidelines (Draft Feb 2017)

NO. ZONE INTENTION COLOUR CODE

1.	AGRICULTURE 1 (or Agriculture Only)	A zone that provides for land and buildings where the primary activity is both intensive and extensive agricultural production of crops, livestock or products.	
2.	AGRICULTURE 2 (or Agriculture Traditional)	A zone that provides for land used for low intensity and small scale agricultural practices in association with other related uses in Traditional Authority areas, and may include market gardening, wood lots, the production of small areas of crops such as sugar cane and livestock.	
3.	RESTRICTED AGRICULTURE	A zone that restricts intensive agriculture and cropping, so that it retains a level of natural vegetation.	
4.	SPECIAL AGRICULTURE	A zone that provides for farming that comprises a substantial number of physical developments/buildings such as greenhouses, poultry farming , windfarms, etc.	
5.	URBAN AGRICULTURE	A zone that provides for land located in urban areas for agricultural purposes, utilized for small scale agricultural production, market gardening, horticulture, aquaculture, the keeping of limited livestock and community gardens.	
6.	FORESTRY	A zone that provides for land used or authorized for the growing of trees with the valid permission of Department of Water Affairs and the Department of Agriculture, Forestry and Fisheries.	

EXAMPLE: FREE STATE

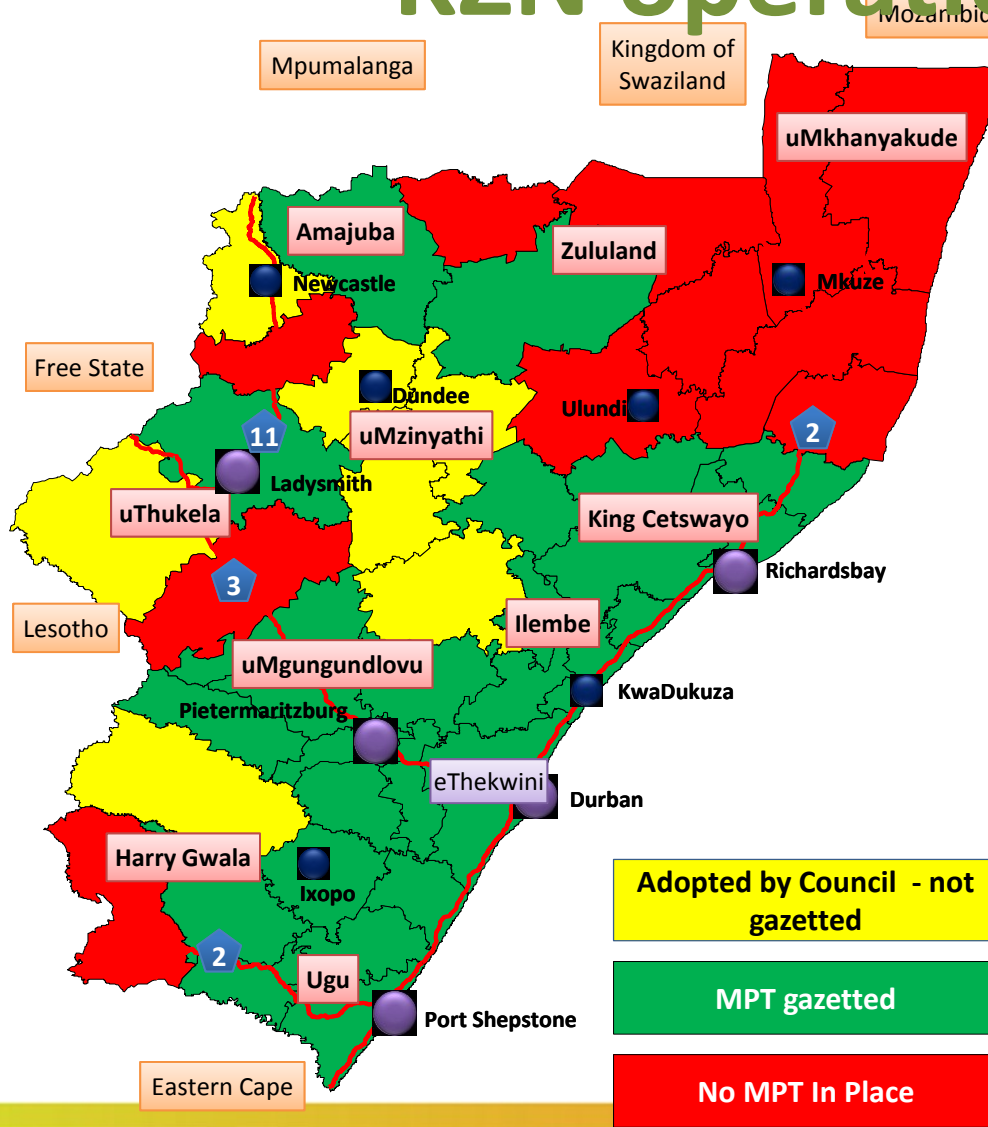
C AGRICULTURAL AREAS

AGRICULTURE ZONES

Uses normally or otherwise reasonably associated with the use of land for agricultural activities, including the use of land for structures, buildings and dwelling units reasonably necessary for or related to the use of the land for agricultural activities			
	ZONING	PERMITTED USES	CONSENT USES
C.1	Agriculture	Agricultural Use Dwelling House Second Dwelling House Workers Dwellings Agric-Industry (< 2000m ²)	Agric-Industry (> 2000m ²) Non Agricultural (Secondary) Uses Renewable Energy Structures Commercial Antenna Roadside Stall Rifle Range Auction Pen
C.2	Commonage	Agricultural Use Office	Initiation School

PROGRESS

KZN operational MPTs



KZN COGTA providing financial support to LMs to Gazette Appointments & Agreements

Adopted by Council - not gazetted

MPT gazetted

No MPT In Place

KZN By-Laws



**All Municipal By-Laws are Adopted & Gazetted
Challenge (Where MPTs not in place)**

- No applications may be processed
- Transitional Measures not valid anymore
- Development comes to a halt

*Siyabonga
Dankie
Thank you*

Stephan Viljoen

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rural development
& land reform

Department:
Rural Development and Land Reform
REPUBLIC OF SOUTH AFRICA